

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

DENNIS K. KIEREN, JR.,

Petitioner,

vs.

STATE OF NEVADA ATTORNEY
GENERAL, et al.,

Respondents.

No. 3:07-cv-00341-LRH-WGC

ORDER

On November 14, 2011, this court conditionally granted this habeas petition (ECF #44). The court reached only ground 5, in which petitioner alleged that he was denied due process during his jury trial for murder in violation of the Fifth and Fourteenth Amendments because the trial court's jury instructions failed to adequately distinguish between the elements of malice aforethought, premeditation, and deliberation. *Id.* at 19. Judgment was entered on November 15, 2011 (ECF #45).

Respondents appealed (ECF #46), and the Ninth Circuit Court of Appeals affirmed this court's decision on March 25, 2014 (ECF #52). Subsequently, the Ninth Circuit withdrew its memorandum disposition affirming, and, on September 22, 2014, reversed and remanded in light of an intervening U.S. Supreme Court decision (ECF #59).

Accordingly, this case has been reopened and the court shall consider the remaining grounds in the petition (ECF #20).¹ Respondents shall have forty-five (45) days from the date of this order to file

¹ On March 18, 2010, this court granted in part respondents' motion to dismiss, concluding that grounds 1, 3 and 4, and ground 7 to the extent that it is based upon the alleged errors in grounds (continued...)


1 supplemental briefing, if any, on the remaining grounds. Petitioner shall have an opportunity to reply,
2 if necessary.

3 **IT IS THEREFORE ORDERED** that, within **forty-five (45) days** of the date of this order,
4 respondents **SHALL FILE** supplemental briefing in support of their answer, if any. If respondents
5 elect to file no further briefing, they shall file a notice to that effect with the court within the same
6 timeframe.

7 **IT IS FURTHER ORDERED** that, if respondents choose to file further briefing, counsel for
8 petitioner shall file his reply, if any, within **thirty (30) days** after the filing of respondents'
9 supplemental briefing.

10 **IT IS FURTHER ORDERED** that if the parties take no action within the deadlines set forth
11 above, the court shall deem the amended petition fully briefed and ready for disposition on the merits.

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13 DATED this 2nd day of June, 2015.

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15 LARRY R. HICKS
16 UNITED STATES DISTRICT JUDGE
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26 ¹(...continued)

27 1, 3 and 4, were subject to dismissal as unexhausted (ECF #31). Thereafter, petitioner filed a
28 declaration of abandonment of those grounds (ECF #33). Thus, the court will now consider grounds
2, 6, 7, 8, and 9 (*see* ECF #20).